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BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
DONN A. BODINE
d.b.a. DONN BODINE CONSTRUCTION
COMPANY,

Appellant,

vs.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 220

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

A formal hearing on the appeal of Donn Bodine to a Notice of Civil Penalty of \$250.00 for an alleged smoke emission violation came on before W. A. Gissberg, hearings officer and as a member of the Pollution Control Hearings Board on April 27, 1973, in Everett, Washington.

Appellant appeared pro se; respondent appeared by and through its attorney, Keith D. McGoffin.

Having reviewed the transcript of the testimony and the exhibits

1 admitted into evidence and being fully advised, the Board makes the
2 following:

3 FINDINGS OF FACT

4 I.

5 Donn Bodine is a carpenter employed by Donn Bodine Construction
6 Company, a corporation. He and his wife own, as community property,
7 all of the stock of the corporation which is engaged in the
8 construction business and have had no prior encounter with respondent's
9 agency. His annual income averages \$10,000 per annum.

10 II.

11 On October 3, 1972, Mr. Bodine ignited an open, outdoor fire
12 at 1230-6th Avenue South, in Edmonds, Snohomish County, Washington,
13 at which place there is a general population density of 2,000 or
14 more persons per square mile. Although appellant admits he started
15 a small fire at 9:30 a.m., it soon spread to and ignited a large
16 pile of brush and stumps which he had accumulated during the clearing
17 of the land upon which his construction was taking place and he
18 had not extinguished it, although trying to do so, until 1:00 p.m.

19 III.

20 Section 9.02(b) of respondent's Regulation 1 makes it unlawful
21 for any person to cause or allow an outdoor fire in a restricted area
22 with a general population density of 2,000 or more persons per
23 square mile.

24 IV.

25 Appellant did not know of respondent's Regulation 1 and had
26 recently observed an outdoor fire of a contractor engaged in land
27 clearing for the Washington State Department of Highways.

FINDINGS OF FACT,

1 From these Findings, the Pollution Control Hearings Board makes
2 these:

3 CONCLUSIONS OF LAW

4 I.

5 Appellant violated respondent's Section 9.02(b) of Regulation 1.

6 II.

7 It being appellant's first offense, it is proper and reasonable
8 for a portion of the civil penalty to be conditionally suspended.

9 Therefore, the Board makes this:

10 ORDER

11 The appeal is denied but \$150.00, of the civil penalty of
12 \$250.00, is suspended upon the condition that there be no further
13 violation by appellant of respondent's Regulations for a period
14 of six months from the date of this Order.

15 DONE at Lacey, Washington this 3rd day of July, 1973.

16 POLLUTION CONTROL HEARINGS BOARD

17 Walt Woodward
18 WALT WOODWARD, Chairman

19 W. A. Gissberg
20 W. A. GISSBERG, Member

21 James T. Sheehy
22 JAMES T. SHEEHY, Member

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26 FINDINGS OF FACT,
27 CONCLUSIONS AND ORDER